

DETAILED ACTION

1. This office action is in response to the amendment filed 2/12/2008. Claims 9, 11 and 13 are cancelled. Claims 1-8, 10 and 12 are currently pending in the application.
2. Applicant's submission of partial translation of the cited prior art reference of Hiramatsu et al (JP 61-171737) is acknowledged.
3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim Rejections - 35 USC § 103

4. Claims 1-4, 7-8, 10 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Moriyama et al (US 6, 156, 849) in view of Hiramatsu et al (JP 61-171737).

The rejection is adequately set forth in paragraph 4 of office action mailed 11/14/2007.

5. Claims 5-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Moriyama et al (US 6, 156, 849) in view of Hiramatsu et al (JP 61-171737) and Hollingshead (US 3, 989, 665).

The rejection is adequately set forth in paragraph 5 of office action mailed 11/14/2007.

Response to Arguments

6. Applicant's arguments filed 2/12/2008 have been fully considered but they are not persuasive.

Specifically, applicant argues that (A) Moriyama et al alone does not teach or suggest the instant invention; (B) Hiramatsu fails to teach a carboxyl group-containing acrylic elastomer; and (C) in Hiramatsu et al, comparison between comparative example 1 and comparative example 2 and between comparative example 3 and comparative example 4 reveals that compression set of comparative example 1 and comparative example 3 using 2-mercaptobenzothiazole is inferior to those of comparative example 2 and comparative example 4 in which no 2-mercaptobenzothiazole is used.

With respect to (A), the examiner agrees and that is why the present rejections are set forth as a combination using Moriyama et al in view of Hiramatsu (for claims 1-4, 7-8, 10 and 12) and Moriyama et al in view of Hiramatsu et al and Hollingshead (for claims 5-6)

With respect to (B), Hiramatsu et al is a secondary reference and it is not necessary that it contain all the limitations of a primary reference and/or instant claims. The primary reference of Moriyama et al does teach acrylic elastomers

containing carboxyl group. Hiramatsu et al is used in the rejection for its teaching that addition of thiazoles, such as 2-mercaptobenzothiazoles, to elastomers results in an elastomer with low compression set and high heat resistance while maintaining excellent workability and moldability. It is the examiner's position that while Hiramatsu's disclosure is not made in the context of carboxy-functionalized acrylic elastomers, nevertheless since it describes at least one embodiment of a functionalized acrylic elastomer and there is no evidence of record to contraindicate that Hiramatsu's teaching cannot be extended to other functionalized acrylic elastomers, the combination of Moriyama et al and Hiramatsu et al is sound and proper.

With respect to (C), attention is drawn to example 1 and example 3, of Hiramatsu et al, wherein it is shown that addition of 2-mercaptobenzothiazole to a crosslinkable elastomer improves compression set, of the elastomer, when irradiated. Thus, addition of thiazoles of Hiramatsu et al to acrylic elastomer of Moriyama et al is prima facie obvious because the present claims are drawn to an acrylic elastomer composition.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Contact Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to KARUNA P. REDDY whose telephone number is (571)272-6566.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vasu Jagannathan can be reached on (571) 272-1119. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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